

Appl. No.: 09/621,085  
Amdt. dated February 10, 2009  
Reply to Office Action of October 28, 2008

### **REMARKS/ARGUMENTS**

Claims 9-28 are currently pending in the application. Based on the foregoing remarks, Applicant respectfully requests reconsideration of the application and allowance of the claims.

#### **I. Rejection of Claims 9-10 & 25-27 Under 35 U.S.C. § 112**

Claims 9-10 and 25-27 are rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. Additionally, claims 9, 25 and 26 are rejected under 35 U.S.C. § 112, second paragraph as allegedly failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. (See pg. 3 of the Office Action)

With respect to the § 112, first paragraph rejections of claims 9-10 and 25-27, the Examiner alleges that the recitation “of an ‘operable device with at least two operating states that may be produced or changed independently from each other’” was not described in such a way as to reasonably convey to one skilled in the art ... *at the time the application was filed* ... [that Applicant] had possession of the claimed invention.” (See pg. 2 of the Office Action) (emphasis added) Applicant disagrees. In this regard, Applicant submits that at least page 1, lines 11-15, page 4, lines 10-18, page 2, lines 15-19, page 3, lines 10-12 and page 6, lines 19-29 of the originally-filed specification was reasonably described in such a way as to convey to a skilled artisan that Applicant indeed had possession of the claimed invention, recited in claims 9-10 and 25-27, *at the time the application was filed*. For example, at least page 4, lines 10-18 of the originally-filed specification discloses an exemplary embodiment in which an operable device has at least two operating states that may be produced or changed independently from each other. As such, Applicant submits that the claim recitation “operable device with at least two operating states that may be produced or changed independently from each other” was reasonably described in such a way as to convey to a skilled artisan that Applicant indeed had possession of the claimed invention *at the time the application was filed*. As such, Applicant respectfully requests the Examiner to reconsider and withdraw the § 112, first paragraph rejection of independent claims 9-10 and 25-27.

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Regarding the § 112, second paragraph rejections of claims 9, 25 and 26, Applicant submits that at least pages 4-5 of the originally filed specification which relates to “Example 1” describes an exemplary embodiment that blocks or releases the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous on a basis of the driving profile, as required by claims 9, 25, and 26 and Applicant submits that a skilled artisan clearly understands the scope of the claims in light of at least pages 4-5 of the originally-filed specification without requiring any additional explanation. As such, Applicant respectfully requests the Examiner to reconsider and withdraw the § 112, second paragraph rejections of independent claims 9, 25 and 26.

## **II. Rejection of Claims 10, 12, 14, 16, 18, 20, 22, 24 & 27-28 Under 35 U.S.C. § 102(e)**

Claims 10, 12, 14, 16, 18, 20, 22, 24, 27 and 28 are rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Hardouin (U.S. Patent No. 6,311,078; hereinafter “Hardouin”).

Claim 10 recites “[a] system, comprising: at least *one operable device with at least two operation states* that may be *produced or changed independently from each other* to be used in a vehicle, with an operating panel through which a user can cause *at least one of producing existing operating states or changing existing operating states of the operable device*; at least one sensor in the vehicle; and a decision unit, coupled to the operating panel, which receives driving speed data from said at least one sensor for determining vehicle-specific conditions by measuring fluctuation of the driving speed of the vehicle over a time period and blocks or releases the existing operating states of the operable device based on the measured fluctuation.”

Applicant submits that Hardouin does not teach or suggest at least all of the above features of claim 10. In contrast to claim 10, Hardouin does not mention, teach or suggest any operable device to be used in a vehicle that has at least two operation states that may be produced or changed independently from each other, as claimed. Additionally, Hardouin does not mention, teach or suggest that a user can cause at least one of producing existing operating states or changing existing operating states of the operable device, as required by claim 10. In contrast to claim 10, Hardouin, at best, discusses preventing receipt and origination of phone calls based on the predefined speed and while momentarily stopped. Thus, Hardouin is altogether silent and

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does not teach or suggest a decision unit, coupled to the operating panel, which receives driving speed data from the at least one sensor for determining vehicle-specific conditions by measuring fluctuation of the driving speed of the vehicle over a time period and blocks or releases the existing operating states of the operable device based on the measured fluctuation, as required by claim 10.

Based at least on the foregoing reasons, Hardouin is deficient and does not teach or suggest all of the features of claim 10. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of independent claim 10 and its dependent claims 12, 14, 16, 18, 20, 22 and 24.

Since claim 27 contains features that are analogous to, though not necessarily coextensive with the features recited in claim 10, Applicant submits that independent claim 27 and its dependent claim 28 are patentable at least for reasons analogous to those submitted for claim 10.

### **III. Rejection of Claims 9, 11, 13, 15, 17, 19, 21, 23 & 25-26 Under 35 U.S.C. § 103(a)**

Claims 9, 11, 13, 15, 17, 19, 21, 23 and 25-26 are rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Hardouin, in view of Hahn et al. (U.S. Patent No. 6,188,949 B1; hereinafter “Hahn”).

Claim 9, as amended recites, “[a] system, comprising: at least one operable device with at least two operating states that may be produced or changed independently from each other to be used in a vehicle, with an operating panel through which a user can cause at least one of producing existing operating states or changing existing operating states of the operable device; at least one sensor in the vehicle; and a decision unit, coupled to the operating panel of the operable device, which receives data from said at least one sensor for determining vehicle-specific conditions over a time period of vehicle operation by evaluating the received sensor data and which converts the vehicle-specific conditions into a driving profile indicating an actual driving situation of the vehicle and blocks or releases the existing operating states of the operable device according to whether the actual driving situation is dangerous or non-dangerous on a basis of the driving profile.”

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Applicant submits that the combination of Hardouin and Hahn does not teach or suggest all of the above features of claim 9. In rejecting claim 9, Applicant points out that the Examiner correctly concedes that Hardouin does not teach or suggest all of the features of claim 9. However, the Examiner relies on Hahn to make up for what Hardouin lacks. (See pg. 7 of the Office Action) In particular, the Examiner merely relies on Hahn as allegedly disclosing “converting vehicle-specific conditions into a driving profile” and relies on Hahn as allegedly disclosing the other features of claim 9. (See *id.*)

As discussed above with respect to claim 10, Hardouin does not teach or suggest “*at least one operable device with at least two operating states that may be produced or changed independently from each other* to be used in a vehicle, with an operating panel through which a user can *cause at least one of producing existing operating states or changing existing operating states of the operable device*, as also required by claim 9. Additionally, as discussed above with respect to claim 10, Hardouin does not teach or suggest “*at least one sensor in the vehicle; and a decision unit, coupled to the operating panel of the operable device, which receives data from said at least one sensor for determining vehicle-specific conditions ... and blocks or releases the existing operating states of the operable device ....*,” as also required by claim 9. Hahn does not make up for these deficiencies of Hardouin and is not cited for such.

Moreover, Applicant submits that Hardouin, alone or in combination with Hahn, does not mention, teach or suggest an actual driving situation. At best, Hardouin, alone or in combination with Hahn, merely defines certain speeds and mentions that talking on a wireless telephone while driving increases the risk of an accident. In contrast, claim 9 recites an actual driving situation that can be dangerous or non-dangerous. To be precise, claim 9 recites an “actual driving situation is dangerous or non-dangerous on a basis of the driving profile.” Since the combination of Hardouin and Hahn does not teach or suggest this feature, the combination is deficient for this additional reason.

In contrast to claim 9, Hahn, at best, discloses a manner in which to record velocity values for a certain route. The recorded and saved velocity data for a certain route can then be stored and used as a driving profile for that certain route. Thus, Hahn, alone or in combination with Hardouin fails to teach or suggest the driving profile indicating an actual driving situation

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of the vehicle, as required by claim 9. Applicant points out that at that Example 1 described at least on pages 5-6 of the originally-filed specification provides an exemplary embodiment in which a sensor is constantly delivering speed values to the decision device. However, such a feature is not contemplated by any driving profile in Hahn, alone or in combination with Hardouin and Hahn is simply altogether silent regarding any driving profile indicating an actual driving situation, as required by claim 9.

Based at least on the foregoing reasons, the combination of Hahn and Hardouin is deficient and does not teach or suggest all of the features of claim 9. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of independent claim 9 and its dependent claims 11, 13, 15, 17, 19, 21 and 23.

Since claims 25 and 26 contain features that are analogous to, though not necessarily coextensive with the features recited in claim 9, Applicant submits that independent claims 25 and 26 are patentable at least for reasons analogous to those submitted for claim 9.

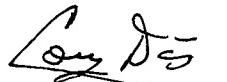
#### **IV. Conclusion**

In view of the foregoing remarks, Applicant respectfully submits that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Miller is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

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Respectfully submitted,



Cory C. Davis  
Registration No. 59,932

**Customer No. 00826**  
**ALSTON & BIRD LLP**  
Bank of America Plaza  
101 South Tryon Street, Suite 4000  
Charlotte, NC 28280-4000  
Tel Atlanta Office (404) 881-7000  
Fax Atlanta Office (404) 881-7777

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